

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
CEDAR RAPIDS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ABDULAZIZ BAH,

Defendant.

No. CR 04-0067 LRR

**SUPPLEMENTAL
JURY INSTRUCTIONS**

Ladies and Gentlemen of the Jury:

The instructions I gave you at the beginning of the trial, during the trial, and at the close of the evidence remain in effect. I will now give you some additional instructions to assist you in answering the attached Special Verdict Form.

You must, of course, continue to follow the instructions I gave you earlier, as well as these Supplemental Jury Instructions I give you now.

INSTRUCTION NUMBER _____

You, the jury, have unanimously found beyond a reasonable doubt that the defendant is guilty of one or more of the offenses with which he was charged.

Under federal law, any person convicted of such offenses shall forfeit to the government all money or property, real or personal, which constitutes proceeds or was derived from proceeds, obtained directly or indirectly, as a result of the offenses of conviction, whether or not the property has been or can be seized by the government. Thus, the government is entitled to a personal money judgment against the defendant for an amount equal to the value of the property that constitutes or was derived from proceeds of the offenses of conviction.

The government is seeking a money judgment under the theory that the defendant derived proceeds directly or indirectly the amount of proceeds, directly or indirectly, as a result of the commission of the offenses of conviction. It is for you to now determine whether defendant derived any proceeds, directly or indirectly, as a result of the offenses of conviction.

It is your duty to determine whether it is more likely than not that the amount that the government asserts, or some other greater or lesser amount, constitutes proceeds or was derived, directly or indirectly, from the offenses of conviction. In considering your forfeiture verdict, you may not consider the degree to which the defendant was involved in any of the offenses of conviction, because by law all criminal participants are individually liable for the entire amount of the money judgment.

INSTRUCTION NUMBER _____

“Proceeds” means property of any kind obtained, directly or indirectly, as the result of the commission of the offense, and any property traceable thereto, and is not limited to the net gain or profit realized from the offense.

INSTRUCTION NUMBER _____

Property is subject to forfeiture if the government proves, by a preponderance of the evidence, that the property constitutes proceeds, or was derived from any proceeds, the defendant obtained, directly or indirectly, as a result of the offenses of which he has been found guilty.

My previous instructions on the government's burden of proof regarding your verdict on the guilt of the defendant do not apply to your deliberations and verdict regarding forfeiture. In deliberating and deciding your verdicts regarding forfeiture, the government need only prove the forfeiture by a preponderance of the evidence, not beyond a reasonable doubt. To prove something by the preponderance of the evidence is to prove that it is more likely true than not true. Preponderance of the evidence is a lesser standard than proof beyond a reasonable doubt.

Your answers to the Special Verdict Form is to be made by considering all the evidence on the subject and deciding which evidence you believe. While deliberating, you may consider any evidence, including testimony, offered by the parties at any time during this trial. Each party is entitled to the benefit of all evidence received, regardless of who offered the evidence.

INSTRUCTION NUMBER _____

Your previous finding that the defendant is guilty of one or more of the offenses with which the defendant was charged in the Indictment is final, conclusive, and binding. Because you are bound by your previous finding that the defendant is guilty, I direct you not to discuss in your forfeiture deliberations whether the defendant is guilty or not guilty of the violations of which you have already found the defendant guilty.

Other than the standard of proof, which I just discussed with you, all of my previous instructions apply to your deliberations with respect to the Special Verdict. You need not concern yourself with the interest that other persons, if any, may have in the property. Such interests, if any, will be taken into account by me at a later time. Similarly, any claim that the forfeiture of property constituting proceeds would constitute excessive punishment is not for you to consider but will be taken into account by me at a later time. Finally, you are not to consider whether the money or other property is presently available to satisfy a forfeiture judgment.

Your only concern is to determine the total value of property, if any, that you find constituted proceeds, or was derived from proceeds the defendant obtained, directly or indirectly, as a result of the offenses which you have previously found the defendant committed.

INSTRUCTION NUMBER _____

Attached to these instructions you will find a Special Verdict Form. The Special Verdict Form is simply the written notice of the decision that you reach as to the additional question asked. The answer to the Special Verdict Form must be the unanimous decision of the jury and must have been proved to you by a preponderance of the evidence.

You will take the Special Verdict Form to the jury room, and when you have completed your deliberations and each of you has agreed on an answer to the question, your foreperson will fill out the form, sign and date it, and advise the marshal or court security officer that you are ready to return to the courtroom.

Finally, members of the jury, take the Special Verdict Form and give it your most careful consideration, and then without fear or favor, prejudice or bias of any kind, return such verdict as accords with the evidence and these instructions.

DATE

**LINDA R. READE
JUDGE, U. S. DISTRICT COURT**

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SPECIAL VERDICT FORM

We, the jury, unanimously find by a preponderance of the evidence that \$ _____ constitutes the total value of the proceeds the defendant, Abdulaziz Bah, obtained, directly or indirectly, as a result of the violations of law charged in Counts 1 through 3 of the Indictment, and that such amount of property is subject to forfeiture.

FOREPERSON

DATE